



**Republican
National
Committee**

Counsel's Office

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FEDERAL ELECTION
COMMISSION
OFFICE OF
GENERAL
COUNSEL

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June 29, 2004

Lawrence H. Norton, Esq.
General Counsel
Office of the General Counsel
Federal Election Commission
999 E St., NW
Washington, DC 20463

RE: Complaint Designated as Matter Under Review # _____

Dear Mr. Norton:

Pursuant to 2 U.S.C. § 437g, and upon information and belief, this complaint concerns violations of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 *et seq.* ("the Act"), and Commission regulations at 11 C.F.R. § 1.1 *et seq.* arising from respondents' scheme to knowingly and willfully fraudulently misrepresent the Republican National Committee ("RNC") when soliciting contributions and donations to "Republican Victory 2004 Committee," a group that is not part of the Republican Party.

In short, the so-called "Republican Victory 2004 Committee" impersonated the Republican Party to fraudulently raise money by phone and by mail. In fact, they defrauded not only the Republican Party, but also those who donated with the expectation that the funds were being solicited by the Republican Party for use by Republican candidates.

I. Statement of the Facts

A. Background

Concerned individuals recently contacted the RNC with suspicions about telemarketing calls and mail that solicited contributions on behalf of the "Republican Victory 2004 Committee." Among the grounds for these suspicions was the fact that caller-identification numbers returned on these calls were associated with a call center in New Delhi, India. Furthermore, when telemarketers identified where they were calling from, one claimed to be in "the Washington DC of Virginia." Yet, recipients of these solicitations were left to believe that the request for money came from the Republican Party, based on the group's name, the description of the purpose and activity of the group, and the language and appearance of the group's direct mail solicitations.

The RNC asked those who contacted the Committee to forward any solicitation material or other information that they received with respect to this activity. As a result, we have detailed information regarding fraudulent phone and mail activity, which has ultimately been the basis for independent inquiry by the U.S. Postal Service and other investigators. For example, one recipient of phone solicitations asked the caller for additional information and the recipient of the call was eventually transferred to Jody L. Novacek in Dallas, Texas, who claimed to be the Chairman of the group, and thus further information forming the basis of this complaint came to light.

B. Factual and Legal Analysis

Section 441b(b) of the Act provides, "No person shall (1) fraudulently misrepresent the person as speaking, writing, or otherwise acting for or on behalf of any candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations; or (2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1)." See 11 C.F.R. 110.16(b). This strengthening of the ban on fraudulent misrepresentation was a result of the amendments included in the Bipartisan Campaign Reform Act of 2002.

Based on information available to the RNC, telemarketers attempted to secure pledges over the phone using the "Republican Victory Committee Script." Attachment 2. In several material ways, the script misrepresents the source of the solicitation as the Republican Party, when, in fact, there is no such connection to any branch of the Republican Party. The script asks whether the recipient of the call is a registered Republican, and references "our state candidates," as if the organization were associated with a duly constituted Republican Party committee with candidates seeking its nomination. The script's appeal for money "so Republicans can win at the state and local levels" further evidences an intent to deceive. Furthermore, the script identifies the "Republican Victory Committee" as a "national group that supports state and local candidates." At the time of these solicitations, this group lacked the means to effectuate

any of these claims because it was not a federally registered political committee nor, based on a review of disclosure agencies, registered as a political committee in a single state.

Misleading phone calls were then followed-up by pledge forms. Attachment 3. The pledge materials are signed by "Anna Collins" who claims to be the "Membership Chairman" of the Republican Victory 2004 Committee. The letter references "our Party," "support of Republicans across the country," and "build[ing] support for Republicans at all levels..." Attachment 3. The language of the letter, in the context of the solicitation for donations, implies that this group is a part of the official structure of the Republican Party. The reply device concludes its request for money as follows: "The Republican Party can count on my support to help candidates at the state & local level. I'm proud to help our Party prepare for the November election. My contribution is enclosed..." *id.* The ostensible disclaimer reads, "Contributions or gifts to the Republican Party are not deductible as charitable contributions for federal income tax purposes..." *Id.* Thus, the specific language, overall message, and appearance of the solicitation for funds act to misrepresent the source of the appeal.

The knowing and willful intent to misrepresent a federal political committee is further evidenced by the inclusion of disclaimer language required on certain public communication solicitations for federally registered political committees, such as the Internal Revenue Service notice cited above. The inclusion of these disclaimers can only be inferred to imply assure potential contributors that they are about to donate to a legitimate Republican Party organization legally capable of actually helping Republican candidates. Furthermore, the RNC claims no ownership of the term "Victory Committee," but the similarity in language, appearance, and use of the eagle graphic in the RNC's solicitation (Attachment 4) and the "Republican Victory 2004 Committee's" written appeal (Attachment 3) is clear evidence of the knowing intent of respondents in raising funds for their group.

The RNC learned additional information concerning the scope of this activity from representatives of Apex CoVantage, L.L.C. ("Apex"), a business outsourcing firm apparently hired as a subcontractor to BPO Advantage, L.P. ("Advantage"). Ms. Novacek has been identified as Advantage's president. Apex provided call center outsourcing in support of these fundraising efforts. On behalf of Advantage, Apex opened a post office box and arranged for telemarketing calls. After apparent contractual problems, Apex contacted the RNC to verify that the solicitation efforts of "The Republican Victory Committee" and "The Republican Victory 2004 Committee" were, in fact, legitimately associated with the RNC. Apex was informed that these efforts were not authorized by the RNC, and consciously withheld delivery to Advantage of checks received in response to the solicitations.

A further troubling consequence of this activity is that the RNC has been forced to respond to unfounded allegations that it outsourced fundraising calls to an Indian telemarketing firm. Attachment 5 (RNC Statement dated May 21, 2004). In fact,

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according to information available to the RNC, Ms. Novacek and her firms subcontracted with Apex for the fundraising calls that generated this false story. While harm may not be an element of a violation of the ban on fraudulent misrepresentation, respondents' repetitive conduct directly harmed the RNC and legitimate Republican Party efforts.

Although I have notified Ms. Novacek of the serious consequences of this activity and our office has been in consultation with United States Postal Inspector Dominic Pinto, 10500 Little Patuxent Parkway, Suite 200, Columbia, Maryland 21044-3509, to pursue this matter fully, the RNC respectfully submits this complaint for your review.

II. Conclusion

Based on available information, there is reason to believe that Jody L. Novacek and the other respondents in this matter knowingly and willfully violated 2 U.S.C. § 441h and other provisions of the Act and Commission regulations. Because knowing and willful fraudulent misrepresentation of this type seriously damages the integrity of the efforts of Republican Party political committees across the country, the Commission should investigate this matter, make the necessary findings of violations, and pursue respondents to the fullest extent of the law.

Respectfully submitted,



Jill Holtzman Vogel
Chief Counsel

Attachments:

1. List of Respondents
2. "Republican Victory Committee Script"
3. "Republican Victory 2004 Committee" Pledge Solicitation
4. RNC Solicitation
5. RNC Press Release dated May 21, 2004

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Verification

Jill Holtzman Vogel hereby verifies that the statements made in this complaint are, upon information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.


Jill Holtzman Vogel

The foregoing instrument was subscribed to and sworn before me on this 27th day of June, 2004 by Jill Holtzman Vogel


Notary Public

My Commission Expires: 7/31/2007

HANNAH B. THRUSH
NOTARY PUBLIC DISTRICT OF COLUMBIA
MY COMMISSION EXPIRES JULY 31, 2007

REPUBLICAN VICTORY COMMITTEE SCRIPT

2004

Hi. This is (YOUR FIRST NAME). Is (LEAD FIRST NAME) home?

IF NOT HOME - POSSIBLE SPOUSE: Are you a registered Republican?

IF NO: I'll call back. Thank you. Goodbye. (SET AS CALLBACK)

IF WHO'S CALLING: This is (Your First Name). Is (Lead FIRST NAME) available?
(When Not Home) This is (Your First Name). I'll Callback. Thank you. Goodbye.
(When Spouse) This is (Your First Name). Are you a registered Republican?

IF YES: Hi. I'm/This is (YOUR FIRST NAME) calling for the Republican Victory Committee. As you know, John Kerry is on the news everyday. It's going to be tough to beat the Democrats this fall. So, it's important to support our state candidates and President Bush's agenda.

Your financial help is critical so Republicans can win at the state and local levels. Join us with a pledge of just \$65, **OKAY!**

IF YES: (TO CONFIRMATION)

IF NO: (TO APPROPRIATE REBUTTAL OR CONTINUE)

2nd ATTEMPT

I understand. Your pledge doesn't have to be so much. Why don't I put you down for just \$35, **OKAY!**

IF YES: (TO CONFIRMATION)

IF NO: (CONTINUE)

3rd ATTEMPT

A small gift of just 15 or 20 dollars will help a lot and we'll send you a letter and return envelope to mail in your pledge, **OKAY!**

IF YES: (TO CONFIRMATION)

IF NO: Thank you for your time. Goodbye.

CONFIRMATION

That's great! I need to record your information.

We have your first name as... (SPELL FIRST NAME or INITIAL)
And your last name as... (SPELL LAST NAME)

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Is this correct? **IF NO:** Can I have your name as you'd like it to appear? (CAPTURE)

We have your address as... (VERIFY/SPELL OUT ADDRESS-CITY-STATE-ZIP - MAKE CHANGES IF NEEDED)

Is this correct? **IF NO:** Can I have your correct address? (CAPTURE)

PAYMENT CAPTURE:

Your pledge is (AMOUNT), correct?

Great. We accept Mastercard, Visa, American Express or Discover. I'll hold while you get your card.

IF NO: We can send you a letter if you prefer, but using a credit card means more of your donation will help Republicans win this fall. It costs \$2.63 to mail a letter plus the bank charges another \$0.50 to deposit your check, so it's over \$3.00. Would you re-consider using a credit card?

IF NO TO CC: That's fine. To help keep our costs as low as possible, I'd like to have you fill out the check while we are on the phone and I need to give you a code to write on the memo line of the check. So, I'll hold while you get your checkbook and a pen to write with, and then we're done, OKAY!
(HOLD WHILE THEY GET A PEN & CHECKBOOK)

IF YES CHECK: You can make your check out to "Victory 2004 Committee." (SAY SLOWLY & PAUSE SO THEY CAN WRITE)

And, you have pledged (AMOUNT). (PAUSE)

On the memo line, please write the code XX(MMDYY). And to confirm I spoke with you, may I have the number of your check - in the upper right-hand corner? (CAPTURE)

IF NO CHECK: That's fine, I'll write a note we we're unable to do this. (TO CLOSE)

IF YES TO CC: (CAPTURE CC INFO)

Account Number

Expire Date

3-digit code on the back of the card

(VERIFY NAME ON THE CARD - CAPTURE IF DIFFERENT)

CLOSE

One more thing, I must remind you political contributions are not tax deductible. Your letter will go out tomorrow. You should receive it in 3 to 5 days. It will be in an over-sized Victory 2004 white envelope. It has a note on the outside of the envelope referencing our phone call. Since it's an election year and you're getting a lot of mail, please wait and look for the envelope that thanks you for this call and your support. Do you have any questions?

Thank you for your time and keep voting Republican. Goodbye/Goodnight.

Republican Victory 2004 Committee REBUT. IS

I ALREADY GAVE -- I JUST SENT A CONTRIBUTION -- I JUST GOT SOMETHING IN THE MAIL -- I GET TOO MANY CALLS/LETTERS -- YOU JUST CALLED ME

I understand it can be confusing. There are about 5 or 6 Republican groups plus the candidate campaigns and the state and local party organizations. Let me tell you who your pledge will help. The Republican Victory Committee is a national group that supports state and local candidates. Your gift will go to help candidates in your state who are in close races and need help to put them over the top.

Since you have other requests, I'd like to suggest a small gift of just (Give Amount based on where the objection came in the script \$25 or \$15), **OKAY!**

IF YES: (GO TO MEMBERSHIP CAPTURE)
IF NO \$25: (GO TO 3rd Attempt)
IF NO \$15: Thank you for your time. Goodbye.

UNHAPPY WITH PRESIDENT BUSH

Your money will not go to President Bush. The Republican Victory 2004 Committee is a national group that supports state and local candidates.

Why don't I put you down for (Give Amount based on where the objection came in the script \$25 or \$15) today, **OKAY!**

IF YES: (GO TO MEMBERSHIP CAPTURE)
IF NO \$25: (GO TO 3rd ATTEMPT)
IF NO \$15: Thank you for your time. Goodbye.

UNHAPPY ABOUT WAR/IRAQ

I understand. It's a very difficult time. The Republican Victory 2004 Committee is a national group that supports state and local candidates. Your gift will go to help candidates in your state -- not to national leaders.

Why don't I put you down for (Give Amount based on where the objection came in the script \$25 or \$15) today, **OKAY!**

IF YES: (GO TO MEMBERSHIP CAPTURE)
IF NO \$25: (GO TO 3rd ATTEMPT)
IF NO \$15: Thank you for your time. Goodbye.

WHAT'S THE MONEY FOR?/! O ARE YOU?

The Republican Victory 2004 Committee is a national group that supports state and local candidates. Your gift will go to help candidates in your state who are in close races and need help to put them over the top.

I'd like to suggest a small gift of just (Give Amount based on where the objection came in the script \$25 or \$15) today, **OKAY!**

IF YES: (GO TO MEMBERSHIP CAPTURE)

IF NO/\$25: (GO TO 3rd ATTEMPT)

IF NO/\$15: Thank you for your time. Please keep voting Republican. Goodbye.

TALK TO MY HUSBAND/WIFE

I'll be happy to do that. I need his/her first name so I can ask for him/her when I call back.

(CAPTURE NEW NAME)

Thank you. I'll callback. Goodbye.

CAN YOU SEND ME SOMETHING - I DON'T DO BUSINESS OVER THE PHONE

We can send you a letter and an envelope to mail in your check for \$(AMOUNT), correct?

IF YES: (GO TO MEMBERSHIP CAPTURE)

IF NO or I CAN'T TELL YOU WHAT I'LL SEND or JUST SEND IT TO ME:

The letter we send states the pledge amount and needs to be a minimum of \$15. Please save us the mail cost if you can't commit to the minimum. Can I put you down for \$15?

IF YES: (GO TO MEMBERSHIP CAPTURE)

IF NO: Thank you for your time. Goodbye

DO NOT CALL - I'M ON A DO NOT CALL LIST - I'M NOT SUPPOSED TO GET THESE CALLS

I'm sorry for the call. We'll put you on our list. Thank you. Goodbye.

WHERE ARE YOU CALLING FROM

Our office is right outside Washington DC - in Virginia. (GO IMMEDIATELY BACK TO SCRIPT - DO NOT PAUSE.)

WEB SITE INFORMATION & PHONE NUMBER REQUESTS

Bush-Cheney Campaign: The national headquarters is in Arlington, VA. The number is 703-647-2700. The web site is GeorgeWBush.com (GO IMMEDIATELY BACK TO SCRIPT - DO NOT PAUSE.)

Bush Bumper Stickers: You'll need to get those from the Bush-Cheney campaign. I can give you their web site. GeorgeWBush.com. If you go to the bottom of the home page you will find "W Stuff". You should find bumper stickers there. (GO IMMEDIATELY BACK TO SCRIPT - DO NOT PAUSE.)

State Party Phone Numbers/Web Sites: Since we are a national group supporting candidates at the local and state levels, we call all 50 states and I do not have each state's phone number. If you would like the Republican National Committee's number in Washington DC, I'll be happy to give you that or I can give you their web site which has links to the state party web sites. 202-863-8500 GOP.com (GO IMMEDIATELY BACK TO SCRIPT - DO NOT PAUSE.)



Republican Victory 2004 Committee

2117 L Street NW # 125 • Washington, DC 20037-1524

March 10, 2004

«FirstName» «LastName»
«Address1»
«City», «ST» «ZIP»

DEAR «FirstName»,

Thank you for speaking with my assistant «Agent» by telephone recently and your generous pledge of \$«PLD»00. I'm grateful our Party can count on your help to support Republicans across the country win elections. We are fortunate to have President Bush in the White House and our top priorities are to improve the American economy and defeat Democrats at all levels. Your gift will help local and state candidates running for office in your state. Strong support at the local and state levels will help get Republicans to the polls in November.

As you've heard on the evening news, the Democrats are hard at work raising money and distorting the Republican record and agenda. Your pledge of \$«PLD»00 is critical in our efforts to build support for Republicans at all levels as we prepare for the November elections. I hope you'll send your generous gift promptly.

Please return the receipt below to ensure your gift is processed properly. For your convenience, we've enclosed a postage-paid, stamped envelope. Thank you again!

Sincerely,

Anna Collins

Anna Collins
Membership Chairman

----- (cut here & return receipt with your pledge) -----

MAIL TO:

Republican Victory 2004 Committee
2117 L Street NW # 125
Washington, DC 20037-1524

FROM:

«FirstName» «LastName»
«Address1»
«City», «ST» «ZIP»
APX030904

The Republican Party can count on my support to help candidates at the state & local level. I'm proud to help our Party prepare for the November election. My contribution is enclosed:

() \$«PLD»00 () \$_____ Other

Please make your check or money order payable to: Victory 2004.

Federal election law requires us to report the following information:

Occupation: _____ Employer: _____

() Check if Retired

() Check if Self-Employed

Contributions or gifts to the Republican Party are not deductible as charitable contributions for federal income tax purposes. Paid for by the Republican Victory 2004 Committee and not authorized by any candidate or candidate committee. Thank you for your support!

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REPUBLICAN NATIONAL COMMITTEE.

Ed Gillespie
National Chairman

September 18, 2003

«FULLNAME»
«Addr2»«STREET»
«CITYSTZIP»

Dear «SAL»,

Thank you for speaking with my assistant, «OpName», by telephone recently and for your special pledge of \$«Pledge» to the RNC. I appreciate your enthusiastic support of President Bush and our Party.

With the 2003 state elections just around the corner and the 2004 presidential election campaigns underway, Democrats are on the attack. They're downplaying positive signs that our economy is growing again and are using their tired, old "smear-and-fear strategy" to undermine America's trust in President George W. Bush.

«Sab», it is critical that you remain actively involved through the entire 2003-2004 election cycle. This November, liberals will declare the results of many state elections a bellwether indicator of how Republican candidates will fare in 2004. Your financial support is crucial to keeping our Party on track to victory.

At every level, Republican candidates across America rely on the RNC for essential campaign training to help get the Republican message straight to the grassroots. Generous RNC members like you comprise the very backbone of our Party. Your \$«Pledge» pledge signals your continued dedication. I am grateful to be able to count on you.

We're fortunate to have President Bush's decisive and dignified leadership. He and his agencies to protect and strengthen our country deserve our strongest support. By helping Republican candidates who will advance his agenda, your financial commitment will make an immediate difference.

Please use the postage-paid envelope enclosed to rush your \$«Pledge» pledge to the RNC today. Thank you again.

Sincerely,


Ed Gillespie
Chairman

P.S. President Bush and Republicans are working hard to enact the right solutions for our country's needs. They depend on RNC members for the strongest political support. Please send your pledge today. Thank you again!

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REPUBLICAN NATIONAL COMMITTEE

2003 Special Contribution Confirmation

Critical Response requested: ASAP

TO: Ed Gillespie
310 First St., SE
Washington, D.C. 20003

FROM: «FULLNAME»
«ADDR1»«ADDR2»«street»
«CITYSTZIP»

«MAILCODE»

«CMDIID»

Dear Ed,

President Bush and the Republican Party can count on my support. I am proud to support the Bush/Republican agenda to strengthen America, and help our Party prepare for future election campaigns. My contribution is enclosed:

() \$___ «PLEDGE»
() \$___ Other

CREDIT CARD INFORMATION:

You may make your contribution to the RNC by credit card if you choose by completing the information below. (Note: Credit cards MUST be personal—not corporate).

Credit Card type: // VISA // MasterCard // American Express // Discover

Credit Card Number: _____

Expiration Date: _____

Name as it appears on Card: _____

Signature: _____

Amount of Contribution: \$ _____

Contributions or gifts to the Republican National Committee are not deductible as charitable contributions for federal income tax purposes.

Funds received in response to this solicitation will be subject to federal contribution limits. Contributions from corporations and foreign nationals are prohibited.

Federal election law requires us to report the following information*

*Occupation: _____

*Employer: _____

*// Please check if self-employed.

Telephone number: _____

Email address _____

// Home // Office _____

www.GOP.com

Paid for by the Republican National Committee
310 First Street, Southeast, Washington, D.C., 20003
not authorized by any candidate or candidate committee

11044291050

Friday, May 21, 2004

RNC Statement on Internet Story on Telemarketing Calls

FOR IMMEDIATE RELEASE

**Contact: Christine Iverson
202-863-8614**

Washington, DC — Today John Kerry supporters began circulating a false story from the Internet, claiming that the RNC outsourced fundraising calls to an Indian telemarketing firm.

"This story is an untrue urban legend which has been traversing the ether regions of cyber space for the better part of a year. It's unfortunate that John Kerry's supporters have so little regard for the truth that they would spread Internet stories with no basis in fact," said RNC Communications Director Jim Dyke.

Signup for customized GOP.com email at: <https://www.gop.com/secure/EmailSignup.aspx>

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